NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,	H045702
Plaintiff and Respondent,	(Santa Clara County Super. Ct. Nos. C1630797, C1760179)
v.	
MARIO S. LIMA,	
Defendant and Appellant.	

Defendant Mario S. Lima and his girlfriend had a five-year-old child together, but they lived separately. In February 2016, Lima went to his girlfriend's home, put his arm around her throat and applied pressure, and bit her on the cheek. He took her cell phone and left. His girlfriend told the police that he had previously placed a handgun in her mouth. Defendant was arrested, and a criminal protective order issued in April 2016.

On February 14, 2017, defendant tried to talk to his girlfriend and then washed his car in the front yard of her residence. He was arrested the next day. In March 2017, defendant went to his girlfriend's home and spoke to her sister. Later that day, he left notes on his girlfriend's vehicle and followed her in his car. The next day he threw rocks at her bedroom window. Over the next couple of days, defendant sent threatening text messages to his girlfriend in which he mentioned firearms and said the police would have to kill him because he would resist arrest. He also went to his girlfriend's home, stood

across the street, called her on the phone, and said he was going to "'kill everyone and kill himself'" and "'torch her cars.'" Defendant had been addicted to methamphetamine for over 20 years and had failed in multiple treatment attempts.

Defendant was charged by complaint with aggravated assault (Pen. Code, § 245, subd. (a)(4)), inflicting corporal injury on the mother of his child (Pen. Code, § 273.5, subd. (a)), stalking while a restraining order was in effect (Pen. Code, § 646.9, subd. (b)), and criminal threats (Pen. Code, § 422). It was further alleged that he had suffered a prior serious felony and strike conviction (Pen. Code, §§ 667, subds. (a), (b)-(i), 1170.12).

Defendant entered into a plea agreement under which he would receive a prison term of seven years and four months in exchange for his no contest pleas to the stalking and criminal threats counts as felonies and to misdemeanor counts of aggravated assault and inflicting corporal injury, and his admission to the prior strike allegation. The prosecution dismissed the serious felony prior allegation.

Defendant expressed an interest in bringing a motion to withdraw his pleas and admission on the ground of ineffective assistance of counsel. His retained counsel was relieved, and the public defender was appointed to represent him. The public defender found no basis for a motion to withdraw. Defendant persisted in making a motion to withdraw his plea, though he failed to articulate a basis for a finding of ineffective assistance. The court denied his motion. The trial court imposed a six-year doubled midterm sentence for the stalking count and a consecutive 16-month doubled one-third of the midterm sentence for the threats count. Jail terms were imposed for the misdemeanor counts, and those terms were deemed served. The court imposed minimum fines and fees. Defendant timely filed a notice of appeal. His request for a certificate of probable cause was denied.

Appointed appellate counsel has filed an opening brief that states the case and the facts but raises no issues. Defendant was notified of his right to submit written argument

on his own behalf but has failed to avail himself of the opportunity. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues on appeal.

The judgment is affirmed.

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Mihara, Acting P. J.

WE CONCUR:

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Grover, J.

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Danner, J.

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